

Close

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

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MAR 23 2004
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U.S. DISTRICT COURT
DISTRICT OF NEW JERSEY

MOMODOU SALLA,

Civil No. 04-0881 (WJM)

Petitioner,

v.

TRANSFER ORDER

RECEIVED

JOHN ASHCROFT, et al.,

Respondents.

MAGISTRATE JUDGE *Collins*

MAR 23 2004

04-10611 DPW

WILLIAM T. WALSH, CLERK

Petitioner, detained by the Department of Homeland Security at Middlesex County Adult Correctional Center in New Brunswick, New Jersey, submitted to the Clerk of this Court for filing a Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 and an affidavit of poverty, and it appearing that:

1. Petitioner is a native and citizen of Gambia who legally entered the United States in 1992.
2. On February 23, 2004, the Clerk of this Court received the instant Petition for a Writ of Habeas Corpus and affidavit of poverty from Petitioner Salla. Salla states that he filed a Petition for a Writ of Habeas Corpus challenging his final order of removal in the United States District Court for the District of Massachusetts, which is pending. He alleges that on August 13, 2003, the Department of Homeland Security revoked his release based on failure to abide by one or more conditions of the order of supervised release dated July 5, 2000, and that he has been detained since August 6, 2003. Salla challenges his detention as

not statutorily authorized and contrary to due process. He seeks an order directing Respondents to release him and to give him a copy of his immigration file.

3. The Court has reviewed the docket in Salla v. Farquharson, Civil No. 99-11287 (MLW) (D. Mass. filed June 7, 1999). In the original Petition, which was filed on June 7, 1999, Salla sought release on the ground that his mandatory detention was unconstitutional because he was not convicted of an aggravated felony. On February 24, 2000, Salla filed a Supplemental Petition challenging his final order of removal. On April 21, 2000, United States District Judge Mark L. Wolf (a) dismissed Salla's original habeas Petition for failure to state a claim upon which relief may be granted on the ground that the Immigration Judge and the BIA were correct in deciding that Salla was subject to mandatory detention based on conviction of an aggravated felony; (b) denied Respondents' motion to dismiss for lack of jurisdiction; (c) ordered Respondents to answer Salla's Supplemental Petition; and (d) determined that Salla's motion to stay his removal is moot in view of the government's decision not to deport him during the pendency of the proceedings. Salla appealed and on August 16, 2000, the United States Court of Appeals for the First Circuit dismissed the appeal on the ground that Judge Wolf's order granting in part and denying in part the

government's motion to dismiss was not a final judgment or an appealable interlocutory order.

4. Although this Court has subject matter jurisdiction over Salla's Petition, 28 U.S.C. § 1406(a) permits this Court to transfer the case, in the interest of justice, to any district in which it could have been brought. Salla could have made a motion for release in the § 2241 case pending in the District of Massachusetts. This Court finds that transfer of the instant Petition to the District of Massachusetts is in the interest of justice because it would reduce the burden of duplicative litigation and because the § 2241 action challenging Salla's removal by the Department of Homeland Security is related to his challenge to detention by that agency.

IT IS on this 22 day of March, 2004,


ORDERED that this action is hereby transferred to the United States District Court for the District of Massachusetts; and it is further

ORDERED that the Clerk of the Court shall effectuate the transfer pursuant to 28 U.S.C. § 1406(a) and shall close the file without filing the Petition or assessing fees.


WILLIAM J. MARTINI, U.S.D.J.

FEDERAL CLERK that the above and foregoing is a true and correct copy of the original on file in my office

ATTEST:
WILLIAM T. WALSH, Clerk
United States District Court
District of New Jersey


Sheree L. Raimo
Deputy Clerk

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U.S. District Court

District of New Jersey [LIVE]

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Case Name: SALLA v. ASHCROFT et al

Case Number: 2:04-cv-881

Filer:

Document Number: 2

Docket Text:

Order transferring case to USDC for the District of MASSACHUSETTS, & close file w/out filing the petition or assessing fees. Signed by Judge William J. Martini on 3/22/04. (sr,)

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1046708974 [Date=3/24/2004] [FileNumber=109033-0]
[aa52248e6b3329b05362c6254aaf8e411eec1f1149e32fcdf4a474cc534406c00031
2fcec47a1f407025191864f53de32d181b389e4d9de7ed8675ef199aeca]]

2:04-cv-881 Notice will be electronically mailed to:

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MOMODOU SALLA
A74-999-048
MIDDLESEX COUNTY JAIL
PO BOX 266
NEW BRUNSWICK, NJ 08903

U.S. District Court
District of New Jersey [LIVE] (Newark)
CIVIL DOCKET FOR CASE #: 2:04-cv-00881-WJM
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U.S. DISTRICT COURT
DISTRICT OF MASS.

SALLA v. ASHCROFT et al
Assigned to: Judge William J. Martini
Referred to:
Demand: \$
Lead Docket: None
Related Cases: None
Case in other court: None
Cause: 28:2241 Petition for Writ of Habeas Corpus (federa

Date Filed: 02/23/04
Jury Demand: None
Nature of Suit: 530 Habeas Corpus
(General)
Jurisdiction: U.S. Government
Defendant

04 - 10611 DPW

Petitioner

MOMODOU SALLA

represented by **MOMODOU SALLA**
A74-999-048
MIDDLESEX COUNTY JAIL
PO BOX 266
NEW BRUNSWICK, NJ 08903
PRO SE

V.

Respondent

JOHN ASHCROFT

**THOMAS RIDGE, Department of
Homeland Security**

**IMMIGRATION AND CUSTOMS
ENFORCEMENT,
Commissioner/Director**

**ANDREA QUARANTILLO, ICE
District Director for the District of
New Jersey**

**EDMOND C. CICCHI, Warden of
Middlesex County Department of
Correction**

Filing Date	#	Docket Text
02/23/2004	<u>1</u>	Petition Received 2241 w/application to proceed IFP. (MD,) (Entered: 03/02/2004)
03/22/2004	<u>2</u>	Order transferring case to USDC for the District of MASSACHUSETTS, & close file w/out filing the petition or assessing fees. Signed by Judge William J. Martini on 3/22/04. (sr,) (Entered: 03/24/2004)
03/24/2004		***Civil Case Terminated. (sr,) (Entered: 03/24/2004)

I HEREBY CERTIFY that the above and foregoing is a true and correct copy of the original on file in my office

WILLIAM T. WALSH, Clerk
United States District Court
District of New Jersey

Sharon Kaimowitz
Deputy Clerk

William T. Walsh
Clerk

UNITED STATES DISTRICT COURT
MARTIN LUTHER KING, JR.
FEDERAL BLD & U.S. COURTHOUSE
50 WALNUT STREET
P.O. BOX 419
NEWARK, N.J. 07101-0419

Tony Anastas, District Clerk
United States District Court for the District of Massachusetts
2300 USCH One Courthouse Way
Boston, MA 02210-3002

Date: 3/25/04

04 - 10611 DPW

Re: SALLA VS. ASCHROFT, ET AL CV-04-881(WJM)

Dear Sir/Madam:

Pursuant to USDC Order of transfer dated 3/23/04

enclosed please find the file in the above matter together with a
certified copy of the docket entries.

Kindly acknowledge receipt on a copy of this letter.

Very truly yours,

William T. Walsh, Clerk

By:


Sherree Raimo

Deputy Clerk

cc: pltf